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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. APHIS-2011-0019]

RIN 0579-AD46

Importation of Jackfruit, Pineapple, and Starfruit From Malaysia into the Continental United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the fruits and vegetables regulations to allow the importation of fresh jackfruit, pineapple, and starfruit from Malaysia into the continental United States. As a condition of entry, all three commodities would have to be irradiated for insect pests, inspected, and imported in commercial consignments. There would also be additional, commodity-specific requirements for other pests associated with jackfruit, pineapple, and starfruit from Malaysia. This action would provide for the importation of jackfruit, pineapple, and starfruit from Malaysia while continuing to provide protection against the introduction of quarantine pests.

DATES: We will consider all comments that we receive on or before [Insert date 60 days after date of publication in the Federal Register].

ADDRESSES: You may submit comments by either of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov/#!documentDetail;D=APHIS-2011-0019-0001>.

- Postal Mail/Commercial Delivery: Send your comment to Docket No. APHIS-2011-0019, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238.

Supporting documents and any comments we receive on this docket may be viewed at <http://www.regulations.gov/#!docketDetail;D=APHIS-2011-0019> or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799-7039 before coming.

FOR FURTHER INFORMATION CONTACT: Mr. Juan A. (Tony) Román, Import Specialist, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737-1231; (301) 851-2242.

#### SUPPLEMENTARY INFORMATION

##### Background

The regulations in "Subpart–Fruits and Vegetables" (7 CFR 319.56-1 through 319.56-58, referred to below as the regulations) prohibit or restrict the importation of fruits and vegetables into the United States from certain parts of the world to prevent the introduction and dissemination of plant pests.

The regulations currently do not authorize the importation of fresh jackfruit (Artocarpus heterophyllus Lam.), pineapple (Ananas comosus (L.) Merr.), or starfruit (Averrhoa carambola L.) from Malaysia.

The national plant protection organization (NPPO) of Malaysia has requested that the Animal and Plant Health Inspection Service (APHIS) amend the regulations to allow fresh

jackfruit, pineapple, and starfruit from Malaysia to be imported into the continental United States.

As part of our evaluation of Malaysia's request, we have prepared pest lists identifying those quarantine pests likely to follow the pathway of jackfruit, pineapple, and starfruit imported from Malaysia. These pest lists may be obtained by contacting the individual listed under FOR FURTHER INFORMATION CONTACT or viewed on the Regulations.gov Web site (see ADDRESSES above for instructions for accessing Regulations.gov).

The pest list for jackfruit from Malaysia identifies the following plant pests as likely to follow the pathway of the fruit:

- Bactrocera albistrigata (de Meijere), white striped fruit fly.
- B. carambolae Drew and Hancock, carambola fruit fly.
- B. cucurbitae Coquilett, melon fruit fly.
- B. frauenfeldi, mango fruit fly.
- B. papayae Drew and Hancock, Asian papaya fruit fly.
- B. tau Walker, a fruit fly.
- B. umbrosa Fabricius, jackfruit fruit fly.
- Cerogria anisocera Wied., a beetle.
- Ceroplastes rubens Maskell, a scale.
- Coccotrypes gedeanus Eggers, a bark beetle.
- C. medius Eggers, a bark beetle.
- Coccus formicarii (Green), a scale.
- Conogethes punctiferalis (Gueneé), yellow peach moth.
- Dysmicoccus neobrevipes Beardsley, gray pineapple mealybug.

- Exallomochlus hispidus (Morrison), cocoa mealybug.
- Glyphodes caesalis Walker, jackfruit borer.
- Neosaisettia laos (Takahashi), a scale.
- Nipaecoccus viridis (Newstead), karoo thorn mealybug.
- Phytophthora meadii McRae, a phytopathogenic fungus.
- Planococcus lilacinus Cock, cacao mealybug.
- P. minor Maskell, passionvine mealybug.
- Rastrococcus iceryodes (Green, 1908), Icerya mealybug.
- R. invadens Williams, mango mealybug.
- R. spinosus Robinson, Philippine mango mealybug.

The pest list for pineapple from Malaysia identifies the following plant pests as likely to follow the pathway of the fruit:

- Achatina fulica, giant African land snail.
- Adoretus sinicus, Chinese rose beetle.
- C. viridis, green scale.
- Darna trima, a nettle caterpillar.
- D. neobrevipes Beardsley, gray pineapple mealybug.
- Eutetranychus orientalis, red spider mite.
- Gliomastix luzulae, a phytopathogenic fungus.
- Glycyphana sinuata, a scarab.
- Leptocorsica acuta, slender rice bug.
- Maconellicoccus hirsutus, a mealybug.
- Marasmiellus scandens, a phytopathogenic fungus.

- Marasmius crinis-equi, horsehair fungus.
- M. palmivorus, a phytopathogenic fungus.
- Melanitis leda, evening brown butterfly.
- Parasa lepida, blue-striped nettle grub.
- P. minor Maskell, passionvine mealybug.
- Prillieuxina stuhlmannii, a phytopathogenic fungus.
- Rhabdoscelus obscurus, New Guinea sugarcane weevil.
- Setothosea asigna, a nettle caterpillar.
- Spodoptera litura, Oriental leafworm moth.
- Stephanitis typica, lacebug.
- Thrips flavus, rose thrips.

The pest list for starfruit from Malaysia identifies the following plant pests as likely to follow the pathway of the fruit:

- B. carambolae Drew and Hancock, carambola fruit fly.
- B. cucurbitae Coquilett, melon fruit fly.
- B. latifrons, Malaysian fruit fly.
- B. occipitalis, a fruit fly.
- B. papayae Drew and Hancock, Asian papaya fruit fly.
- C. punctiferalis (Gueneé), yellow peach moth.
- Cryptophlebia encarpa, Cacao husk borer.<sup>1</sup>
- Cryptophlebia spp., macademia nut borer.

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<sup>1</sup> The pest list considers Cryptophlebia encarpa to be distinct from other species of Cryptophlebia because, unlike other Cryptophlebia species, it is highly unlikely to become established in the continental United States. We discuss this matter at greater length below.

- D. neobrevipes Beardsley, gray pineapple mealybug.
- M. hirsutus, a mealybug.
- Phoma averrhoae, a phytopathogenic fungus.
- P. lilacinus, cacao mealybug.
- P. minor Maskell, passionvine mealybug.
- Pseudococcus aurantiacus, a mealybug.

(Since these pest lists were completed, we have decided that P. minor Maskell and C. viridis should no longer be considered to be plant pests of quarantine significance.

Information regarding this decision is available by contacting the individual listed under FOR FURTHER INFORMATION CONTACT.)

We have determined that measures beyond standard port-of-entry inspection are required to mitigate the risks posed by these plant pests. Accordingly, we have prepared a risk management document (RMD), titled “Importation of Fresh Fruits of Jackfruit (Artocarpus heterophyllus), Pineapple (Ananas comosus), and Starfruit (Averrhoa carambola) with Stems, from Malaysia into the Continental United States” (June 2012), to aid in determining the specific measures necessary to mitigate these quarantine pest risks. Copies of the RMD may be obtained from the person listed under FOR FURTHER INFORMATION CONTACT or viewed on the Regulations.gov Web site.

Based on the recommendations of the RMD, we are proposing to authorize the importation of jackfruit (with stems less than 5 centimeters in length), pineapple, and starfruit from Malaysia into the continental United States, provided they are produced and shipped in accordance with general and commodity-specific mitigation measures. We are proposing to add

these measures to the regulations in a new § 319.56-59 governing the importation of jackfruit, pineapple, and starfruit from Malaysia into the continental United States.

## Systems Approaches

### General Requirements

Proposed paragraph (a) of § 319.56-59 would contain general requirements that would apply to the importation of jackfruit, pineapple, or starfruit from Malaysia into the continental United States.

Proposed paragraph (a)(1) of § 319.56-59 would require jackfruit, pineapple, and starfruit from Malaysia to be treated for plant pests with irradiation in accordance with 7 CFR part 305. Within part 305, § 305.9 provides that irradiation of imported fruits and vegetables for which irradiation is a required treatment must occur at APHIS-certified facilities located within or outside of the United States. It further provides that approved irradiation treatment schedules for these fruits and vegetables are set out in the Plant Protection and Quarantine (PPQ) Treatment Manual, found online at [http://www.aphis.usda.gov/import\\_export/plants/manuals/ports/downloads/treatment.pdf](http://www.aphis.usda.gov/import_export/plants/manuals/ports/downloads/treatment.pdf). The manual specifies that treatment schedule T105-a-2, irradiation at a dosage of 400 gray, is efficacious in neutralizing all quarantine pests that are members of the class Insecta, except pupae or adults of the order Lepidoptera.

Twenty-one of the 24 pests considered likely to follow the pathway of jackfruit from Malaysia belong to the class Insecta, and do not belong to the order Lepidoptera. Two of the remaining three pests, Conogethes punctiferalis and Glyphodes caesalis, belong to the order Lepidoptera, but are not considered likely to pupate inside jackfruit or follow the pathway of

jackfruit as adults. Hence, treatment according to this irradiation schedule would neutralize 23 of the 24 pests considered likely to follow the pathway of jackfruit from Malaysia.

Mitigation measures for the one pest that would not be mitigated by such irradiation treatment, Phytophthora meadii McRae, are discussed later in this document, in the section titled “Additional Requirements for Jackfruit from Malaysia.”

Fifteen of the 22 pests considered likely to follow the pathway of pineapple from Malaysia belong to the class Insecta. Of these, five belong to the order Lepidoptera; however, none of these five pests are known to pupate in pineapple or are likely to follow the pathway as adults. Hence, treatment according to treatment schedule T105-a-2 would neutralize all 15 insect pests likely to follow the pathway of pineapple from Malaysia.

Mitigation measures for the remaining seven pests are discussed later in this document, in the section titled “Additional Requirements for Pineapple from Malaysia.”

Thirteen of the 14 pests considered likely to follow the pathway of starfruit from Malaysia belong to the class Insecta. Of these, three belong to the order Lepidoptera. One of these three pests, C. punctiferalis, is not known to pupate in starfruit and is unlikely to follow the pathway as an adult. Hence, treatment according to treatment schedule T105-a-2 would neutralize 11 of the pests considered likely to follow the pathway of starfruit from Malaysia.

Another, Cryptophlebia encarpa, may pupate within starfruit and follow the pathway, but can only survive in plant hardiness zones 12 and 13, which are not found in the continental United States.<sup>2</sup> Thus, this pest is highly unlikely to become established in the continental United States, if introduced.

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<sup>2</sup> To view a map of the plant hardiness zones, go to <http://planthardiness.ars.usda.gov/PHZMWeb/>.

Mitigation measures for the remaining two pests likely to follow the pathway of starfruit from Malaysia, Cryptophlebia spp. and Phoma averrhoae, are discussed later in this document, in the section titled “Additional Requirements for Starfruit from Malaysia.”

Paragraph (a)(2) would require jackfruit, pineapple, and starfruit from Malaysia to be imported in commercial consignments only. Historically, produce grown commercially is less likely to be infested with plant pests than noncommercial consignments. Noncommercial consignments are more prone to infestation because the commodity is often ripe to overripe and is often grown with little to no pest control. Commercial consignments, as defined within the regulations, are consignments that an inspector identifies as having been imported for sale and distribution. Such identification is based on a variety of indicators, including, but not limited to: Quantity of produce, type of packaging, identification of grower or packinghouse on the packaging, and documents consigning the fruits or vegetables to a wholesaler or retailer.

#### Additional Requirements for Jackfruit from Malaysia

As we mentioned above, irradiation according to treatment schedule T105-a-2 is effective in neutralizing 23 of the 24 pests considered likely to follow the pathway of jackfruit from Malaysia. There would, however, be one pest, P. meadii, a phytopathogenic fungus, for which irradiation is not an approved treatment. Accordingly, proposed paragraph (b) of § 319.56-59 would set forth additional conditions for the importation of jackfruit from Malaysia to mitigate the risk associated with P. meadii.

Proposed paragraph (b)(1) would require that, if the jackfruit has stems, these stems are less than 5 cm in length. One would not expect to find commercially produced jackfruit with stems that are 5 cm in length or greater; hence the pest list for jackfruit only evaluated jackfruit with stems that are less than 5 cm in length. Accordingly, there may be additional pests of

quarantine significance that would follow the pathway on imported jackfruit from Malaysia if the jackfruit has stems that are 5 cm in length or greater.

Proposed paragraph (b)(2) would specify that the jackfruit would have to originate from an orchard that was treated during the growing season with a fungicide approved by APHIS for P. meadii, and the fruit would have to be inspected by the NPPO of Malaysia prior to harvest and found free of this pest. Alternatively, the jackfruit would have to be treated after harvest with a fungicidal dip approved by APHIS for P. meadii. Several copper-based fungicides have been demonstrated to kill P. meadii, and APHIS is currently evaluating studies that suggest a combination of copper and the fungicides metalaxyl and mancozeb is similarly efficacious. To that end, if this rule is finalized, APHIS would collaborate with the NPPO of Malaysia to ensure that Malaysian jackfruit producers are provided with a continually updated list of all APHIS-approved fungicides for P. meadii.

Proposed paragraph (b)(3) would require each consignment of jackfruit imported from Malaysia into the continental United States to be accompanied by a phytosanitary certificate issued by the NPPO of Malaysia. The phytosanitary certificate would need to have an additional declaration indicating that the jackfruit has been subject to one of the mitigations for P. meadii set forth in proposed paragraph (b)(2) and has been inspected prior to shipment and found free of P. meadii. (The inspection would provide added assurance that the jackfruit is free from P. meadii.) Additionally, if the jackfruit has been irradiated in Malaysia, the phytosanitary certificate would have to have an additional declaration that the fruit has been treated with irradiation in accordance with 7 CFR part 305. Alternatively, the irradiation treatment may take place in the continental United States as provided in § 305.9.

### Additional Requirements for Pineapple from Malaysia

As we mentioned above, irradiation according to treatment schedule T105-a-2 is effective in neutralizing 15 of the 22 pests considered likely to follow the pathway of pineapple from Malaysia. It is not approved to mitigate the following pests:

- Achatina fulica, giant African land snail.
- Eutetranychus orientalis, red spider mite.
- Gliomastix luzulae, a phytopathogenic fungus.
- Marasmiellus scandens, a phytopathogenic fungus.
- Marasmius crinis-equi, horsehair fungus.
- M. palmivorus, a phytopathogenic fungus.
- Prillieuxina stuhlmannii, a phytopathogenic fungus.

Accordingly, proposed paragraph (c) of § 319.56-59 would set forth additional requirements for the importation of pineapple from Malaysia into the continental United States that are necessary to mitigate the risk associated with these quarantine pests.

Proposed paragraph (c)(1) would require the pineapple to originate from an orchard that was treated during the growing season with a fungicide approved by APHIS for G. luzulae, M. scandens, M. crinis-equi, M. palmivorus, and P. stuhlmannii, and the fruit would have to be inspected by the NPPO of Malaysia prior to harvest and found free of quarantine pests.

Alternatively, the pineapple would have to be treated after harvest with a fungicidal dip approved by APHIS for these fungi. A number of broad-spectrum fungicides for pineapples have demonstrated efficacy in killing these five fungi.

Proposed paragraph (c)(2) would require the pineapple to be sprayed after harvest but prior to packing with water from a high-pressure nozzle or with compressed air so that all

A. fulica and E. orientalis are removed from the surface of the pineapple. This will effectively remove A. fulica and E. orientalis, as both are external feeders.

Proposed paragraph (c)(3) would require each consignment of pineapple imported from Malaysia into the continental United States to be accompanied by a phytosanitary certificate, issued by the NPPO of Malaysia, with an additional declaration that the pineapple has been subject to one of the mitigations for G. luzulae, M. scandens, M. crinis-equi, M. palmivorus, and P. stuhlmannii set forth in proposed paragraph (c)(1), has been treated for A. fulica and E. orientalis in accordance with proposed paragraph (c)(2), and has been inspected prior to shipment and found free of those pests. Additionally, if the pineapple has been irradiated in Malaysia, the phytosanitary certificate would have to have an additional declaration that the fruit has been treated with irradiation in accordance with 7 CFR part 305. Alternatively, the irradiation treatment may take place in the continental United States as provided in § 305.9.

#### Additional Requirements for Starfruit from Malaysia

As we mentioned above, irradiation according to treatment schedule T105-a-2 is effective in neutralizing 11 of the 14 pests considered likely to follow the pathway of starfruit from Malaysia imported into the United States. It is not approved to mitigate the following pests:

- Pupae of other Cryptophlebia spp.
- Phoma averrhoae, a phytopathogenic fungus.

Thus, proposed paragraph (d) of § 319.56-59 would set forth additional requirements for the importation of starfruit from Malaysia into the continental United States that are necessary to mitigate the risk associated with Cryptophlebia spp. and Phoma averrhoae.

Paragraph (d)(1) would require that, before shipment, each consignment of starfruit would have to be inspected by the NPPO of Malaysia using a sampling method agreed upon by

APHIS and the NPPO of Malaysia. As part of this method, a sample would have to be obtained from each lot, inspected by the NPPO of Malaysia, and found free from P. averrhoae. The fruit in the sample would then have to be cut open, inspected, and found free from pupae of Cryptophlebia spp.

P. averrhoae causes symptoms that are readily detectable during visual inspection. These include sunken, black lesions and, in advanced stages, pycnidia, or flowering, spore-filled masses that erupt from the surface of the fruit. Moreover, while P. averrhoae does have a latency period, this period usually ends once fruit becomes ripe. Hence we consider visual inspection sufficient to mitigate for this pest.

In contrast, at least one species of Cryptophlebia, C. peltasica, is known to pupate within fruit. While there is no evidence that this is true of other species of Cryptophlebia, scientific evidence does not yet exist that would rule out such pupation. Hence we would require starfruit from Malaysia destined for export to the United States to be cut open and visually inspected for pupae of Cryptophlebia spp.

Paragraph (d)(2) would require each consignment of starfruit imported from Malaysia into the continental United States to be accompanied by a phytosanitary certificate, issued by the NPPO of Malaysia, with an additional declaration that the starfruit has been inspected prior to shipment and found free of P. averrhoae and pupae of Cryptophlebia spp. Additionally, if the starfruit has been irradiated in Malaysia, the phytosanitary certificate would have to have an additional declaration that the fruit has been treated with irradiation in accordance with 7 CFR part 305. Alternatively, the irradiation treatment may take place in the continental United States as provided in § 305.9.

## Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

In accordance with the Regulatory Flexibility Act, we have analyzed the potential economic effects of this action on small entities. The analysis is summarized below. Copies of the full analysis are available by contacting the person listed under FOR FURTHER INFORMATION CONTACT or on the Regulations.gov Web site (see ADDRESSES above for instructions for accessing Regulations.gov).

APHIS proposes to allow imports from Malaysia of fresh pineapple, jackfruit, and starfruit with stems into the continental United States under certain phytosanitary conditions. This action is undertaken in response to a request from the Government of Malaysia. Data on U.S. production and trade of jackfruit or starfruit are not available. The latest available data on U.S. fresh pineapple production is for 2006, when 99,000 metric tons were sold by Hawaiian producers. By comparison, fresh pineapple imports by the United States doubled between 2002 and 2010, from 406,000 to 809,000 metric tons, with Costa Rica as the principal source.

Malaysian producers expect to export to the United States about 2,500 metric tons of fresh pineapple (equivalent to 0.3 percent of U.S. imports in 2010), 1,500 metric tons of fresh jackfruit, and 3,000 metric tons of fresh starfruit. Importers and wholesalers that may be affected by the proposed rule are predominantly small entities. Small-scale Hawaiian producers of fresh pineapple, jackfruit, and starfruit mainly market to consumers within that State and are not expected to be significantly affected by the importation of these fruits into the continental United States.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

#### Executive Order 12988

This proposed rule would allow jackfruit, pineapple, and starfruit to be imported into the continental United States from Malaysia. If this proposed rule is adopted, State and local laws and regulations regarding jackfruit, pineapple, and starfruit imported under this rule would be preempted while the fruit is in foreign commerce. Fresh jackfruit, pineapple, and starfruit are generally imported for immediate distribution and sale to the consuming public and would remain in foreign commerce until sold to the ultimate consumer. The question of when foreign commerce ceases in other cases must be addressed on a case-by-case basis. If this proposed rule is adopted, no retroactive effect will be given to this rule, and this rule will not require administrative proceedings before parties may file suit in court challenging this rule.

#### Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. APHIS-2011-0019. Please send a copy of your comments to: (1) Docket No. APHIS-2011-0019, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238, and (2) Clearance Officer, OCIO, USDA, room 404-W, 14th Street and Independence Avenue SW., Washington, DC 20250. A

comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

We are proposing to amend the fruits and vegetables regulations to allow the importation of jackfruit, pineapple, and starfruit from Malaysia into the continental United States. As conditions for entry of all three commodities, they would have to be irradiated at a minimal dosage of 400 gray, inspected, and imported in commercial consignments. There would also be additional, commodity-specific requirements for jackfruit, pineapple, and starfruit from Malaysia.

Implementation of this proposed rule would require persons to fill out phytosanitary certificates with additional declarations.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. These comments will help us:

(1) Evaluate whether the proposed information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses).

Estimate of burden: Public reporting burden for this collection of information is estimated to average 1 hour per response.

Respondents: The NPPO of Malaysia.

Estimated annual number of respondents: 1.

Estimated annual number of responses per respondent: 85.

Estimated annual number of responses: 85.

Estimated total annual burden on respondents: 85 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

Copies of this information collection can be obtained from Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851-2908.

#### E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the E-Government Act to promote the use of the Internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this proposed rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851-2908.

#### Lists of Subjects in 7 CFR Part 319

Coffee, Cotton, Fruits, Imports, Logs, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, we are proposing to amend 7 CFR part 319 as follows:

## PART 319–FOREIGN QUARANTINE NOTICES

1. The authority citation for part 319 continues to read as follows:

Authority: 7 U.S.C. 450, 7701-7772, and 7781-7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

2. A new § 319.56-59 is added to read as follows:

§ 319.56-59 Jackfruit, pineapple, and starfruit from Malaysia.

Fresh jackfruit (Artocarpus heterophyllus Lam.), pineapple (Ananas comosus (L.) Merr.), and starfruit (Averrhoa carambola L.) may be imported into the continental United States from Malaysia only under the conditions described in this section.

- (a) General requirements for jackfruit, pineapple, and starfruit from Malaysia. (1)

Jackfruit, pineapple, and starfruit from Malaysia must be treated for plant pests with irradiation in accordance with part 305 of this chapter.

(2) Jackfruit, pineapple, and starfruit from Malaysia may be imported in commercial consignments only.

(b) Additional requirements for jackfruit from Malaysia. (1) If the jackfruit has stems, these stems must be less than 5 cm in length.

(2)(i) The jackfruit must originate from an orchard that was treated during the growing season with a fungicide approved by APHIS for Phytophthora meadii, and the fruit must be inspected by the national plant protection organization (NPPO) of Malaysia prior to harvest and found free of this pest; or

(ii) The jackfruit must be treated after harvest with a fungicidal dip approved by APHIS for P. meadii.

(3) Each consignment of jackfruit imported from Malaysia into the continental United States must be accompanied by a phytosanitary certificate, issued by the NPPO of Malaysia, with an additional declaration that the jackfruit has been subject to one of the mitigations for P. meadii in paragraph (b)(2) of this section and has been inspected prior to shipment and found free of P. meadii. Additionally, if the jackfruit has been irradiated in Malaysia, the phytosanitary certificate must have an additional declaration that the fruit has been treated with irradiation in accordance with 7 CFR part 305.

(c) Additional requirements for pineapple from Malaysia. (1)(i) The pineapple must originate from an orchard that was treated during the growing season with a fungicide approved by APHIS for Gliomastix luzulae, Marasmiellus scandens, Marasmius crinis-equi, Marasmius palmivorus, and Prillieuxina stuhlmannii, and the fruit must be inspected by the NPPO of Malaysia prior to harvest and found free of those pests; or

(ii) The pineapple must be treated after harvest with a fungicidal dip approved by APHIS for G. luzulae, M. scandens, M. crinis-equi, M. palmivorus, and P. stuhlmannii.

(2) The pineapple must be sprayed after harvest but prior to packing with water from a high-pressure nozzle or with compressed air so that all Achatina fulica and Eutetranychus orientalis are removed from the surface of the pineapple.

(3) Each consignment of pineapple imported from Malaysia into the continental United States must be accompanied by a phytosanitary certificate, issued by the NPPO of Malaysia, with an additional declaration that the pineapple has been subject to one of the mitigations for G. luzulae, M. scandens, M. crinis-equi, M. palmivorus, and P. stuhlmannii in paragraph (c)(1) of this section, has been treated for A. fulica and E. orientalis in accordance with paragraph (c)(2) of this section, and has been inspected prior to shipment and found free of A. fulica,

E. orientalis, G. luzulae, M. scandens, M. crinis-equi, M. palmivorus, and P. stuhlmannii.

Additionally, if the pineapple has been irradiated in Malaysia, the phytosanitary certificate must have an additional declaration that the pineapple has been treated with irradiation in accordance with 7 CFR part 305.

(d) Additional requirements for starfruit from Malaysia. (1) Before shipment, each consignment of starfruit must be inspected by the NPPO of Malaysia using a sampling method agreed upon by APHIS and the NPPO of Malaysia. As part of this method, a sample must be obtained from each lot, inspected by the NPPO of Malaysia, and found free from Phoma averrhoae. The fruit in the sample must then be cut open, inspected, and found free from pupae of Cryptophlebia spp.

(2) Each consignment of starfruit imported from Malaysia into the continental United States must be accompanied by a phytosanitary certificate, issued by the NPPO of Malaysia, with an additional declaration that the starfruit has been inspected prior to shipment and found free of P. averrhoae and pupae of Cryptophlebia spp. Additionally, if the starfruit has been irradiated in Malaysia, the phytosanitary certificate must have an additional declaration that the fruit has been treated with irradiation in accordance with 7 CFR part 305.

Done in Washington, DC, this 2<sup>nd</sup> day of May 2013.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

